IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.Civil Writ Petition No. 8278/2007

(Madan Lal V/s State of Rajasthan & Ors.)

Date of Order:- 17.12.2007

HON'BLE MR.JUSTICE SANGEET LODHA

Mr. Sudheer Sharma, for the petitioner.

BY THE COURT:-

This writ petition is directed against the judgment dated 21.02.2006 passed by the learned Board of Revenue for Rajasthan, Ajmer, whereby an appeal preferred by the petitioner against the judgment dated 05.09.2002 passed by learned Additional Commissioner, Colonization-cum-Revenue Appellate Authority, Bikaner upholding the judgment dated 12.12.2001 passed by Assistant Commissioner, Kolayat, has been dismissed.

In nutshell the relevant facts are that 41 Bighas land classified as 'Barani' comprising Khasra No. 475 was allotted to the petitioner on temporary basis on 18.07.1978. According to the petitioner said allotment was renewed time to time and the renewal was continued till 1990-91. After a lapse of about 10 years, the petitioner preferred an application for renewal. It was

reported by Tehsildar, Kolayat that the petitioner is engaged in the business of timber and resides at Bombay. The learned Assistant Colonization Commissioner rejected the application of petitioner for renewal vide order dated 12.12.2001 holding that the petitioner is not a bonafide agriculturist. Aggrieved against the said order, the petitioner preferred an appeal before Additional Commissioner, Colonization, Bikaner, who also rejected the appeal and upheld the order dated 12.12.2001 passed by the Assistant Colonization Commissioner. The second appeal preferred by the petitioner has been rejected by the learned Board of Revenue inter alia on the ground that the petitioner has not bothered for renewal of the allotment of the disputed land for a period of ten years and his request after a gap of ten years does not give him any right to get the same land allotted on temporary cultivation. The learned Board of Revenue also noticed the fact that as per the report of the Tehsildar, the petitioner does not normally reside in the village and he is involved in the business of timber at Mumbai and is not dependent on agricuture. Accordingly, the appeal preferred by the petitioner has been rejected by the learned Board of Revenue.

It is contended by the petitioner that the report submitted by the Tehsildar is incorrect and on the basis of the said report the Assistant Commissioner, Colonization was not justified in

rejecting the application for renewal filed by the petitioner. The learned counsel submits that for the allotment/renewal, it is not necessary that the allottee should be a bonafide agriculturist.

Admittedly, the allotment for temporary cultivation made in favour of the petitioner has not been renewed after the year 1990. There is absolutely no explanation on record as to what prevented the petitioner from seeking renewal of the allotment for all these years. All the authorities below have concurrently found that the petitioner is engaged in business of timber and residing at Bombay, therefore he is not a bonafide agriculturist. It is to be noticed that even at the appellate stage no material whatsoever has been placed on record by the petitioner to show that the report submitted by the Tehsildar is incorrect. As a matter of fact, even in memo of appeal filed before the Additional Commissioner, Colonization, the petitioner has not questioned the validity of the report submitted by the Tehsildar, Kolayat. It is pertinent to note that the allotment for temporary cultivation is renewed on year to year basis, but the petitioner has not cared to make any application for renewal for a period of about ten years, which also supports the report made by the Tehsildar, Kolayat that the petitioner is not a bonafide agriculturist residing in the village. The petitioner cannot claim renewal of allotment for temporary cultivation as a matter of right. Moreover, after the year 1990-91, the petitioner having

failed to make any application for renewal, the allotment for temporary cultivation made in his favour stands lapsed, therefore the application made by the petitioner for the renewal for such allotment after a lapse of about ten years has rightly been rejected by the learned Assistant Commissioner, Colonization.

In this view of the matter, I do not find any infirmity or illegality in the order impugned passed by the learned Board of Revenue.

In the result, the writ petition fails, it is hereby dismissed.

No order as to costs.

(SANGEET LODHA),J.